

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ROBERT N. SMITHBACK

Plaintiff,

VS.

STATE OF TEXAS, ET AL.

Defendants.

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NO. 3-05-CV-0578-M

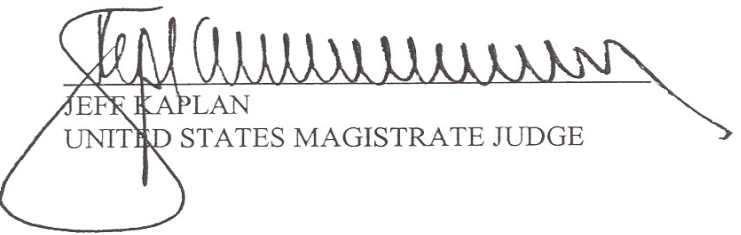
**MEMORANDUM ORDER**

Plaintiff Robert N. Smithback, appearing *pro se*, has filed a motion for interrogatories [Doc. #42] and a motion for discovery [Doc. #43] on Defendant Christina Melton Crain. Fed. R. Civ. P. 33 permits a party to serve another party with written interrogatories. Fed. R. Civ. P. 34 contains a similar procedure for document requests. The provisions of these rules are self-executing. Interrogatories and requests for production must be served directly on the opposing party through its counsel of record. Court intervention is not necessary unless the party fails or refuses to comply with the discovery request. *See* Fed. R. Civ. P. 37(a)(2)(B) (motion to compel is authorized if a party fails to serve interrogatory answers or respond to a request for production).

It appears that plaintiff only recently served his interrogatories and document requests on counsel for defendant. Unless and until defendant fails or refuses to answer this discovery, plaintiff may not seek relief from the court. Accordingly, his motion for interrogatories and motion for discovery are denied as unnecessary.

SO ORDERED.

DATED: September 2, 2005.



JEFF KAPLAN  
UNITED STATES MAGISTRATE JUDGE